Fishing rights retained by 'part-Ute', judge rules

Federal Judge Bruce S. Jenkins has overturned the conviction of a "mixed-blood" Ute Indian woman for illegally fishing on the Uintah and Ouray Reservation, saying since she was once "enrolled" in the tribe, those rights remain hers.

The ruling overturned a misdemeanor conviction of Oranna Bumgarner Felter by U.S. Magistrate Daniel Alsup. Judge Jenkins, U.S. District Court for Utah, ruled that the magistrate, in convicting the woman of illegally fishing at Bottle Hollow, made an "reversible error" that was narrow in scope.

Ms. Felter, Judge Jenkins noted, was "formerly an enrolled member of the Ute Indian Tribe" until Congress terminated mixed-blood Utes in 1954 to reduce federal involvement and expense.

That termination, involving about one-fourth of the tribe as it then existed, "does not mean that someone's identity as an Indian is ended," the judge ruled.

Any Indian enrolled as a tribe member at the time of termination, he said, may still fish and hunt on the reservation, but that right is not inheritable.

"Attrition will eventually extinguish the mixed-blood entitlement," Judge Jenkins said.

What Congress did in terminating mixed-blood Utes was to take away their eligibility for federal services and duties and took away the power of the federal government in managing the affairs of the mixed-blood Indians, the judge ruled.

Attorney Kathryn Collard, who represented Ms. Felter, said the ruling means that hundreds, if not thousands, of mixed-blood Utes will once again fish and hunt on the reservation.